



The Commonwealth of Massachusetts

Executive Office of Public Safety

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SECURITY AND PRIVACY COUNCIL

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C O M B I N E D

A N N U A L R E P O R T S

For Fiscal Years 1981 and 1982
(July 1, 1980 - June 30, 1982)

State Library of Massachusetts
State House, Boston 02133

The Massachusetts Criminal Offender Record Information (CORI) Act, Chapter 805 of the Acts of 1972, created two agencies to regulate the dissemination and use of criminal records. As overseer of access and dissemination, the Criminal History Systems Board was given general responsibility for the records. The Security and Privacy Council was created to act as an independent watchdog over the security of the CORI system and to insure the privacy of those who have records in that system.

Statutory Functions of the Security and Privacy Council

The nine appointed members of the Council are directed to "conduct a continuing study and review and to make recommendations concerning questions of individual privacy and system security in connection with the collection, storage, dissemination, and usage of criminal offender record information. . . The Council may conduct such inquiries

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and investigations as it deems necessary and consistent with its authority." G.L. c.6, §170.

Improper Maintenance of CORI

One of the Council's functions is to investigate and, if appropriate, hold adversary hearings on complaints from individuals who believe that CORI concerning them is inaccurate, incomplete, or misleading. If, as the result of such a hearing, the Council finds the complaint to be meretorious, it recommends corrective action to the Board. The Board is then empowered to require the errant agency to correct the challenged CORI.

Between July 1, 1980 and June 30, 1982 three complaints were received by the Council alleging inaccurate criminal records were being maintained on the complainants. After investigation, one complaint was determined to be without merit and dismissed. A second complaint was determined to be valid and administrative remedies to have the record corrected were instituted. The third complaint is still under investigation (because of delays requested by the complainant).

Dissemination of CORI

Under G.L. c.6, §172(a) and (b), the Board, after consultation with the Council, must grant access to either (a) a criminal justice agency or (b) a non-criminal justice agency with a statutory directive to check criminal records.

Under G.L. c.6, §172(c), an agency or individual may be certified for CORI access where a majority of both the Board and Council each voting as separate bodies concludes that "the public interest in disseminating (CORI) to these parties clearly outweighs the interest in security and privacy." Access, if granted, must be limited to that necessary to sustain the public interest asserted.

Certification Process

Any individual or agency requesting certification for access to CORI under the provisions of G.L. c.6, §172 must apply in writing to the Board or Council. Application must be made on the appropriate form. In considering applications under §172(a), the Council makes a recommendation to the Board as to the applicant's conformity with the definition of criminal justice agency found in the CORI Act and Board regulations. Regarding applications brought under §172(b), the Council considers whether there is a clear statutory directive to check criminal records and makes an appropriate recommendation to the Board. The Board considers the recommendations of the Council, but the ultimate decisions regarding §172(a) and §172(b) certifications are with the Board.

With regard to §172(c) applications, the decision to certify is shared equally by the Council and Board. First, an application for §172(c) certification is considered by the Joint Subcommittee on §172(c) certifications. This subcommittee was established pursuant to a joint regulation of the Board and Council and is composed of representative members of both bodies. It was created for the purpose of formulating a single recommendation for each §172(c) request to be presented to the Board and Council, respectively.

Second, the request for certification and recommendation of the Subcommittee is considered and voted upon by the Council at its next meeting. The procedure is repeated by the Board.

Existing Certifications Under §172(c)

Between July 1, 1980 and June 30, 1982 the following organizations or categories of individuals were certified under §172(c):

- Chief Driver License Administrators
- Cambridge Listing Board
- National Guard
- U.S. Navy Recruiting Command
- Department of Mental Health
- U.S. Army Recruiting
- Fire Departments
- Board of Education
- U.S. Air Force Recruiting
- Long Term Care Division - Department of Public Health
- Nashoba Community Hospital

Pennsylvania Power and Light Co.
Marathon House, Inc.
National Security Agency
Federal Reserve Bank
United Parcel Service
Museum of Fine Arts
Massachusetts Hospital School

The above-listed organizations were added to the following §172(c) certifications that were already in existence on July 1, 1980:

M.B.T.A.
Board of Registration in Nursing
State Boxing Commission
Boston School Department - School Security Guards
Department of Public Welfare - Child Support
Enforcement Unit¹
Middlesex School
Department of Health and Hospitals - City of Boston
Ambulance Regulations Program - Department of
Public Health
Bureau of Motor Carrier Safety, U.S. Dept. of Transportation
General Public - alphabetical indices to all
pending criminal cases.
New England Telephone
Boston Edison Company
Yankee Atomic Electric Company
Reynolds Electrical Engineering Co., Inc.
State Archivist
Boston School Committee
Special Commission Concerning State and County Buildings
U.S. General Accounting Office
Stone and Webster Engineering Corporation
School Bus Drivers
Ward and Child Care Workers²
Adoptive and Foster Parents
Attorney of Record
Registrar of Voters and Listing Boards
Notification of Offender Release Status
Type A - Citizen Initiated Petition
Type B - Corrections or Treatment Initiated Petition
Municipal Police Institute
Defense Investigative Services¹

1 Certified as criminal justice agencies under §172(a) in 1982, causing the 172(c) certifications to lapse.

2 Repealed prospectively in 1979.

By statute, access granted under 172(c) is not to exceed two years. With the exceptions noted above the Council and Board have renewed the certifications for additional periods for all those agencies and categories of individuals whose certifications have expired. In 1982, the Council approved a 172(c) renewal application to be completed by those certified agencies seeking renewal.

Special mention should be made of the Notification of Offender Release Status Certifications issued under §172(c). Access is given under this section to any person designated by both the Counsel of the Security and Privacy Council and the Counsel of the Criminal History Systems Board to receive notification of the temporary or permanent release of a CORI subject from custody for any reason, including final discharge, furlough, parole, work release, or educational release. Any person may make a request to be notified by specifying the grounds on which he or she bases a reasonable belief that the physical safety of the requestor or of other persons requires such notification. Through June 30, 1982 a total of sixty persons had been certified under this general grant of access.,

Military Recruiters

Since the CORI statute was first enacted, military recruiters have been certified to obtain felony conviction data on prospective enrollees pursuant to §172(b) certifications. During 1980 and 1981, all branches of the military were certified under §172(c) to enable recruiters to check misdemeanor conviction data as well.

Several Armed Forces recruiters requested access for juvenile history record information from other states. On December 8, 1980 the Council wrote to Senator Edward M. Kennedy, then Chairman of the Judiciary Committee of the United States Senate, pointing out that regulations of the Department of Justice, Law Enforcement Assistance Administration, prohibit dissemination of juvenile records to non-criminal justice agencies. Senator Kennedy wrote back, thanking the Council and expressing his commitment to improving the criminal justice system in a way consistent with personal privacy rights.

Audits

In compliance with 28 CFR 20.21(c), the Council conducts on-site audits of agencies certified to receive CORI. The audit function is designed to ensure that:

- collection, storage and dissemination of CORI occurs under procedures that provide that all such information is accurate, complete and secure;
- physical security and access control policies and procedures are adequately provided for; and
- CORI is used only for criminal justice and other authorized purposes.

An additional function of audits is that on-site visits provide a forum for small CORI training sessions as well as the opportunity for agencies to raise questions encountered in implementing the CORI law and regulations.

In calendar year 1981, a total of nineteen agencies were audited.

Public Education

Traditionally, the Council has involved itself in a program of public education regarding privacy rights. The cornerstone of this program was the publication of the third edition of Privacy in Massachusetts: Your Rights Under the Law for which a copyright was secured in 1981. The first edition of one hundred copies was completely distributed to libraries and members of the public within several months. Privacy in Massachusetts: Your Rights Under the Law is now in its second printing, a copy of which is appended as Attachment A.

Members

Between July 1, 1980 and June 30, 1982 the membership of the Council has consisted of the following persons (starred members are currently serving):

- Harriet Belin
- Leon P. J. Drysdale
- * Howard V. Elliott
- * Thomas M. Finneran
- * Edith E. Flynn
- Dorothy Green
- * Donald W. Hansen
- Daniel G. Harrington
- * Jeffrey A. Meldman
- * Marie J. Parente
- * Joseph P. Shannon

The above-listed members were appointed by the Governor to serve for four years. The two representatives of the Criminal History Systems Board that currently serve on the Council are Michael Farrington, designee of George A. Luciano, Chairman of the Board, and Frank Carney.